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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,897	02/04/2002	Dusan Janic	29766-68166	5245

23643 7590 03/26/2004

BARNES & THORNBURG
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INDIANAPOLIS, IN 46204

EXAMINER

CASTRO, ARNOLD

ART UNIT	PAPER NUMBER
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3747

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/066,897

Applicant(s)

JANIC ET AL.

Examiner

Arnold Castro

Art Unit

3747

-- The MAILING DATE f this communicati n appears on the cover sheet with the corresp ndence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 and 13-20 is/are allowed.
- 6) ☒ Claim(s) 8 is/are rejected.
- 7) ☒ Claim(s) 9-12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 9 February 2004 was filed after the mailing date of the first Office Action on 27 August 2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner. However, in reference to European Search Report dated 03 July 2003 report is considered to be a correspondence and not a prior art document it has been lined out by examiner. The information referred to therein has been fully considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Kennedy (US/4,252,096).

Art Unit: 3747

Kennedy discloses a method of controlling minimum rotational speed of an internal combustion engine, the method comprising the steps of: determining rotational engine speed of an internal combustion engine (output of tach 200); determining an engine acceleration rate as a function of said rotational engine speed of said engine (secondary derivative circuit 300 produces a DC voltage level proportional to the rate of acceleration); and controlling a minimum rotational speed of said engine as a function of said rotational engine speed of said engine and said engine acceleration rate (, the controller 400 to react as much as 1000 RPM below the predetermined speed limit, since it is a function of acceleration rate).

Col. 2 states:

Another problem to overcome is engine speed overshoot past the predetermined speed limit set point when high acceleration rates are encountered. To eliminate overshoot in such a situation, a secondary derivative circuit 300 is located between the output of the tachometer 200 and the reference supply at the input to the controller 400. In this case, the secondary derivative circuit 300 produces a DC voltage level proportional to the rate of acceleration and applies this output to modify the preset DC reference voltage. The output of secondary derivative circuit 300 allows, therefore, the controller 400 to react as much as 1000 RPM below the predetermined speed limit, since it is a function of acceleration rate. Of course, this earlier governor control below the actual predetermined speed limit set point in response to a rapid engine acceleration rate causes that rate to be reduced since it has a negative feedback effect.

Response to Arguments

4. Applicant's arguments, see paper number 9, filed 2 January 2004, with respect to outstanding rejections have been fully considered and are persuasive. The outstanding rejections have been withdrawn. However, upon further consideration, a new grounds of rejection is made in regards to claim 8 under newly discovered art.

Art Unit: 3747

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnold Castro whose telephone number is (703) 305-0039. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yuen Henry can be reached on (703) 308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MAHMOUD GINIE
PRIMARY PATENT EXAMINER
ART UNIT 3747

AC+


Arnold Castro
Examiner
Art Unit 3747